

CLIENT ALERT

EU Posted Workers Directive Revised

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To ensure fair wages and a level playing field between posting and local companies in the host country, while maintaining the principle of free movement of services, the European Union Posted Workers Directive of December 16, 1996 has been revised.

If a worker is posted from his/her home country to a host country in the EU, the core set of local employment legislation, such as provisions on working time, minimum salary, and health and safety in the workplace, apply to the posted worker, notwithstanding the fact that the employment contract is subject to the home country's law.

This set of core provisions has now been expanded. For instance, the host country's local rules on accommodation (if accommodation is offered to the worker) also apply to the posted workers. The same goes for expenses on behalf of the employer, such as travel and meal expenses. Another main expansion relates to the definition of 'remuneration'. It is now explicitly determined that remuneration includes all benefits, by law to be granted to local workers in the same job, such as an end-of-year bonus, meal vouchers, and a mobility allowance (and no longer only the fixed minimum salary). Equal pay for equal work in the same EU country.

After 12 (or 18) months of posting, the entire local employment legislation (and not only the set of core provisions) should apply to the posted workers (with some exceptions regarding termination and additional pension schemes).

EU Member States now have two years to adopt the new rules into local legislation.

Therefore, in two years' time, local employment legislation will apply to a (much) larger extent to any workers you post to the EU. The impact on postings to Belgium will be relatively low as Belgian law already includes most of the changes, and since almost the entire employment legislation should be considered to be core legislation. Other EU Member States may have some work to do.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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